

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DEVIN A. WHITTIER,
Plaintiff,
v.
SEATTLE TUNNEL PARTNERS, *et al.*,
Defendants.

Cause No. C17-0751RSL

**ORDER DENYING
PLAINTIFF'S MOTION IN
LIMINE REGARDING TIE-
OFFS**

This matter comes before the Court on “Plaintiff’s Motion in Limine re: Tie-Offs.” Dkt.

116.¹ Seattle Tunnel Partners (“STP”) intends to prove that plaintiff improperly tied off the wires securing the rebar wall that was being built and to argue that the failure to properly tie off the ends was a contributing factor that led to the collapse and that plaintiff’s improper technique and refusal to accept correction by his supervisor rebuts plaintiff’s evidence that he was on a fast track to the upper echelon of union ironworkers. Plaintiff calls the latter argument “weak” (Dkt. # 183 at 1) and points out that defendant’s expert has acknowledged that, by the time the wall collapse reached the portion of the wall on which plaintiff worked, “the collapse was well

¹ Plaintiff filed three separate motions in limine in violation of LCR 7(d)(4). The three motions totaled approximately 20 pages in violation of LCR 7(e)(5). The Court has not considered the last two pages of the third-filed motion, Dkt. # 117, pages 8 and 9.

underway and not stoppable" (Dkt. # 120-1 at 5). The expert also stated, however, that plaintiff's failure to tie the rebar correctly "was just one contribution element" in that it deprived the project of the redundancies that help keep workers safe. *Id.* at 5-7.

5 Each side will be permitted to make their arguments regarding (a) the causal connection
6 between the twist ties plaintiff used and his injuries and (b) how plaintiff's conduct on the day of
7 the accident reflects on his career prospects. The Court will not choose between the disputed
8 inferences offered by the parties in the context of a motion in limine. Plaintiff has not explained
9 how the tie-off evidence, put in context by the arguments of counsel, would mislead the jury or
10 be unduly prejudicial.

For all of the foregoing reasons, plaintiff's motion in limine (Dkt. # 116) is DENIED.

Dated this 23rd day of May, 2022.

Robert S. Lasnik
Robert S. Lasnik
United States District Judge

**ORDER DENYING PLAINTIFF'S MOTION
IN LIMINE REGARDING TIE-OFFS - 2**